IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 17.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.495 of 2006

Muniyathaa .. Petitioner

Vs.

1. The District Magistrate
and District Collector of
Tiruuvannamalai district

2. The Secretary to the Government,
Prohibition and Excise Dept.,
Fort St.George, Chennai. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the detention order dt.17.4.2006 passed by the first respondent herein in his office ref.D.O.No.25/2006-C2 and quash the same and direct the respondents to produce the petitioner's daughter Komala, wife of late Anandan, No.46, Samuthiram colony, Tiruvannamalai Town, Tiruvannamalai district, presently undergoing detention in the Special Prison for Women, Vellore under Section 2(1) of Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 before this Hon'ble Court and set the detenue at liberty.

WEB COPY

For Petitioner : Mr.P.Mani
For Respondents : Mr.Babu Muthu Meeran
Addl. Public Prosecutor

https://hcservices.ecourts.gov.in/hcservices/

O R D E R

(Order of the Court was made by P.Sathasivam, J.)

The petitioner, who is the father of the detenue by name Komala, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 17.4.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenue, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenue dated 29.4.2006 was received by the Government on 2.5.2006 and remarks were called for on 3.5.2006. Thereafter, the remarks were received by the Government on 10.5.2006 and the File was submitted on 11.5.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same date i.e. on 11.5.2006 and finally, the Minister for Prohibition and Excise passed orders on 23.5.2006. The rejection letter was prepared on 23.5.2006 and the same was sent to the detenue on 24.5.2006 and served to her on 25.5.2006. As rightly pointed out by the learned counsel for the petitioner, though the file was dealt with the Deputy Secretary on 11.5.2006, the Minister for Prohibition and Excise passed the order on 23.5.2006, there is no explanation at all for taking time for passing order by the Minister for Prohibition and Excise till 23.5.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for passing order by the Minister for Prohibition and Excise is on the higher side and we hold that the said delay has prejudiced the detenue in disposal of her representation. On this ground, we quash the impugned order of detention.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenue is directed to be set at liberty forthwith from the custody unless she is required in some other case or cause.

ajr

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
   Prohibition and Excise Dept.,
   Fort St.George, Chennai-9.

2. The District Magistrate
   and District Collector of
   Tiruuvannamalai district

3. The Superintendent,
   Special Prison for Women, Vellore
   (In duplicate for communication to detenue)

4. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

WEB COPY

HCP. No.495 of 2006

AMB(CO)
RVL 26.07.2006

https://hcservices.ecourts.gov.in/hcservices/